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10/021,080	12/19/2001	Michael Best	11922-US	8725
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Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/021,080

Applicant(s)

BEST ET AL.

Examiner

Jason Mitchell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12-20 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-20 and 22-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-9, 12-20 and 22-24 are pending in this application.

Response to Arguments

2. As an initial matter Examiner notes that the "HP OpenView for Windows User Guide" was cited as Non-Patent Document 'U' on the Notice of References Cited mailed 6/26/06 and a copy of the pertinent sections was included with that action. However, an electronic copy of the complete document is available upon request and as recently as 3/17/07, online at:

<http://support.3com.com/infodeli/tools/netmgt/temwin/tem6.1/091114hp/hpov.pdf>

3. Further, **Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.**

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims recite a "run-time expandable network management and service provisioning framework" but only describe this framework in terms of various software

applications (i.e. "a plug-in registry", "a directive parser", an executable code implementation of [an] object" etc.).

Computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Claim Objections

Claim 23 is objected to because of the following informalities: As currently written, claim 23 depends from claim 21, which has been canceled. For the purposes of this action claim 23 will be treated as dependent on claim 20. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. Claim 23 recites the limitation "the one of the use and the software application directive" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

6. Claims 1-9, 12-20 and 22-24 rejected under 35 U.S.C. 103(a) as being unpatentable over "The Benefits of CORBA-Based Network Management" by Haggerty and Seetharaman (Haggerty) in view of "HP OpenView for Windows User Guide" (HP OpenView) further in view of US 6,898,792 to Burke (Burke).

7. **Regarding Claims 1 and 12:** Haggerty discloses a run-time expandable network management and service provisioning framework for use in a network management and service provisioning system (*"an open standards-based, extensible, and distributed network management system using CORBA" see pg. 73, col. 1, paragraph 1*), The framework comprising:

(a) a plug-in registry configured to load and register at run-time at least one enabling-technology plug-in which brokers access to network management and service provisioning enabling technologies (*"The topology objects represent the network and contain information pertaining to addressing, type, uniqueness, resources and status. ... The topology objects are created through OpenView Map additions to the MOM or by auto discovery." see pg. 76, col. 1, paragraph 1*);

- (b) processing, at run-time, at least one self-contained managed data network entity specification file including directives (*"The topology objects are created through ... auto discovery." see pg. 76, col. 1, paragraph 1)*
 - (c) an executable code implementation of a single managed entity object class, the single managed entity object class being derivable via type derivation into a derivation hierarchy of managed data network object types based on parsed entity derivation directives (*"All objects in the model derive from one base object called a Managed Object. " see the paragraph bridging pp. 76-77);*
 - (e) a message interpreter processing, at run-time, messages received from at least one network management and service provisioning software application, the message including a software application directive employed to invoke at least one method of a corresponding managed data network object instance of a derived managed data network object type to access a corresponding field installed managed data network entity via the enabling technology plug-in (*"ProSphere includes a client application that integrates with OpenView. This application displays the ProSphere topology within the OpenView graphical interface. Additionally, ProSphere user interfaces can be launched for OpenView windows" see pg. 78, col. 2, par. 2);*
- a separation being achieved between managed data network entities, enabling technologies and software applications, the separation enabling independent development, maintenance and trouble shooting of network management and service provisioning deployments minimizing the need to re-code and re-compile framework

code in support of new managed entity object types (*"The ProSphere user interfaces use the compiled stubs from IDL to interact with the objects. This decouples the user interface code completely from the object implementation"* see pg. 78, col. 1 par. 1).

8. Note that HP OpenView discloses the auto discovery process used by Hagerty to add his topology objects (see Hagerty pg. 76, col. 1, paragraph 1) includes the steps of reading a self-contained managed data network entity specification file including directives (ch.1 pp. 2-3 "This information is stored in a device definition file"; ch. 5, pg. 1 "The OpenView SNMP Manager uses information from MIB files provided by network device manufacturers to build its own database").

9. Hagerty does not explicitly disclose a directive parser and a generic run-time lexical analyzer augmented with a lexical analyzer stub associated with the registered plug-in or an executable code implementation of a single managed entity object class being run-time derivable via type derivation.

10. Burke teaches (b) a directive parser configured to process, at run-time, at least one self-contained managed data network entity specification file including directives (*"the parser accepts foreign object definition information"* see col. 4, lines 6-17);

(c) an executable code implementation of a single managed entity object class being run-time derivable via type derivation (col. 4, lines 49-51 "encapsulator objects that have native interfaces that are not predefined"); and

(d) a generic lexical analyzer run-time augmented with the lexical analyzer stub associated with the registered plug-in (*"the parser accepts foreign object definition information expressed in foreign notation and instantiates one or more encapsulator objects for each rule ... in a grammar that corresponds to the syntactic structure defined in the foreign notation."* see col. 4, lines 6-17), the augmented lexical analyzer processing, at run time an enabling-technology-specific use directive parsed from a managed data network entity specification file (*"The encapsulator objects expose native interfaces that may be interrogated to discover the foreign object definition information they encapsulate"* see col. 4, lines 6-17).

11. It would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate Burke's specific and generic lexical analyzers as part of the discovery (Burke col. 3, lines 36-38 "run-time discovery") of Haggerty's 'Topology objects' (Haggerty pg. 76, col. 1, par. 1 "The topology objects are created through ... auto discovery.") because then *"The gateway can ... be an off-the-shelf application adaptable through the repository to [a] wide variety of circumstances"* (see Burke col. 6, lines 52-54).

12. **Regarding Claim 2:** The rejection of claim 1 is incorporated; further Haggerty discloses the single managed entity object class is an abstract managed object class (pg. 76, col. 2, par. 4 'The ProShpere architecture defines an abstract set of CORBA objects').

13. **Regarding Claim 3:** The rejection of claim 1 is incorporated; further Haggerty discloses a derived managed data network object type in the derivation hierarchy includes the specification of at least one attribute (pg. 77, col. 1, par. 1 'the derived objects ... implement most of their properties and functions').

14. **Regarding Claim 4:** The rejection of claim 1 is incorporated; further Burke teaches the at least one self-contained managed data network entity specification file includes a human readable file (col. 3, lines 27-29 'Encapsulator objects can include all information contained in GDMO/ASN.1 specification').

15. **Regarding Claim 5:** The rejection of claim 4 is incorporated, further Burke teaches the human readable file is an attribute file holding attributes corresponding to a single managed entity object type derivable at runtime in one of a direct and an indirect manner from the single managed entity object class (col. 4, lines 6-17 'the parser accepts foreign object definition information expressed in foreign notation and instantiates one or more encapsulator objects for each rule ... in a grammar that corresponds to the syntactic structure defined in the foreign notation.') Note that Burke also teaches that GDMO/ASN.1 defines attributes (col. 2, lines 33-41 "among other object information, ... transfer syntaxes which can be used to invoke DDMO objects")

16. **Regarding Claim 6:** The rejection of claim 3 is incorporated; further Burke teaches the entity derivation directive includes an attribute specification (col. 2, lines 33-41 "among other object information, ... transfer syntaxes which can be used to invoke DDMO objects").

17. **Regarding Claim 7:** The rejection of claim 6 is incorporated; further while Haggerty does not explicitly disclose the attribute specification further specifies managed data network object type inheritance, he does disclose that the object being derived from the specification allows for inheritance (pg. 77, col. 1, par. 1 'higher level objects implement most of their properties and functions'). It would therefore have been obvious to a person of ordinary skill in the art at the time of the invention to further specify managed data network object type inheritance.

18. **Regarding Claim 8:** The rejection of claim 1 is incorporated; further Haggerty discloses the network management and service provisioning enabling technologies include support for at least one of a persistence method and a persistence entity (pg. 76, col. 1, par. 2 'The topology objects ... contain information pertaining to addressing, type, uniqueness, resources, and status').

19. **Regarding Claim 9:** The rejection of claim 1 is incorporated; further Burke discloses the use directive further specifies a command sequence to be followed in

using a specific registered enabling technology (col. 2, lines 33-41 "among other object information, ... transfer syntaxes which can be used to invoke DDMO objects").

20. **Regarding Claim 13:** The rejection of claim 12 is incorporated; further Haggerty discloses processing the at least one message received by the framework, the method comprises a further step of deriving a containment hierarchy of managed data network type instances corresponding to field installed data network equipment (Fig. 4).

21. **Regarding Claim 14:** The rejection of claim 12 is incorporated; further Haggerty discloses registering with the framework at least one plug-in, the method further comprises a step of run-time registering the at least one plug-in (pg. 76, col. 1, par. 2 'The topology objects are created through OpenView Map additions to the MOM').

22. **Regarding Claim 15:** The rejection of claim 14 is incorporated; further Haggerty discloses wherein run-time registering the at least one plug-in, the method further comprises a prior step of: selecting the at least one plug-in for registration thereof (pg. 76, col. 1, par. 2 'The topology objects are created through OpenView Map additions to the MOM').

23. **Regarding Claim 16:** The rejection of claim 12 is incorporated; further Haggerty discloses a step of: prior to parsing the at least one managed data network entity; run-time loading the at least one managed data network entity specification (pg. 76, col. 1,

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par. 2 'The topology objects are created through OpenView Map additions to the MOM'). Note that in order to parse a thing that thing must first be loaded; otherwise the parser cannot interact with it.

24. **Regarding Claim 17:** The rejection of claim 16 is incorporated; further Haggerty discloses run-time loading the at least one managed data network entity specification, the method further comprises a prior step of: selecting the at least one managed data network entity specification (pg. 76, col. 1, par. 2 'The topology objects are created through OpenView Map additions to the MOM').

25. While Haggerty does not explicitly disclose selecting the at least one managed data network entity specification, It would have been obvious to a person of ordinary skill in the art at the time of the invention to provide a user with the ability to select the at least one managed data network entity specification instead of having to re-define the managed data network entity prior to adding it to the MOM.

26. **Regarding Claim 18:** The rejection of claim 12 is incorporated; further Haggerty discloses wherein parsing, the method further comprises a step of: extracting at least one directive from the at least one managed data network entity specification, the at least one managed data network entity specification being associated with at least one managed entity object type (pg. 77, col. 1, par. 1 'higher level objects implement most of their properties and functions').

27. Haggerty does not explicitly disclose extracting at least one directive from the data network entity specification said directive being associated with at least one managed entity object type, however this association is inherent in his disclosure on pg. 77, col. 1, par. 1 'higher level objects implement most of their properties and functions'. Without a directive associated with at least one managed entity object type, inheritance as disclosed could not be established.

28. **Regarding Claim 19:** The rejection of claim 12 is incorporated; further Haggerty discloses wherein deriving the single managed entity object class via type derivation, the method further comprises a step of setting at least one attribute (pg. 77, col. 1, par. 1 'the derived objects ... implement most of their properties and functions').

29. **Regarding Claim 20:** The rejection of claim 12 is incorporated; further Haggerty discloses wherein prior to processing the at least one message received by the framework from the at least one software application, the method further comprises a step of: registering the at least one software application with the framework (Fig. 2, ProSphere Application Objects').

30. **Regarding Claim 22:** the rejection of claim 12 is incorporated; further Haggerty discloses wherein implementing the software application directive, the method further comprises a step of: instantiating a managed entity object type (pg. 76, col. 1, par. 2 'The topology objects are created through OpenView Map additions to the MOM').

31. **Regarding Claim 23:** The rejection of claim 20 is incorporated; further Haggerty discloses wherein implementing the one of the use and the software application directive the method further comprises a step of: effecting a change in a network state of a managed data transport network in a realm of management (pg. 78, col. 1, par. 1 'The ProSphere user interfaces use the compiled stubs from IDL to interact with the objects').

32. **Regarding Claim 24:** The rejection of claim 12 is incorporated; further Haggerty discloses wherein subsequent to processing the at least one message received by the framework; the method further comprises a step of: sending a message to the software application (pg. 78, col. 2, par. 2 'integrates with OpenView').

Conclusion

33. As a result of the new grounds of rejection, **this action is made NON-FINAL.**

34. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Mitchell whose telephone number is (571) 272-3728. The examiner can normally be reached on Monday-Thursday and alternate Fridays 7:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jason Mitchell
3/20/07



MENG-AI T. AN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100